

Kansas Division of Workers Compensation Fraud and Abuse Unit Annual Report 2001



**Phil Harness, Director
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MESSAGE FROM THE DIRECTOR

The Fraud and Abuse Unit of the Division of Workers Compensation set a record this past year, as this report will evidence. This year the Fraud and Abuse Unit collected the most in restitution and civil penalties ever.

As you will see when reading through this report, the Fraud and Abuse Unit has stepped up prosecution of workers compensation fraud violators. Not only is prosecution up, but enforcement of the judgment i.e. collection of fines, penalties and restitution has significantly increased.

Overview of Fraud & Abuse Unit Activity	
Civil Cases Filed	37
Criminal Cases Filed	2
Fines & Restitution Ordered	\$202,465.09
Moneys Collected	\$ 77,768.56

The Unit is dedicated to the investigation and prosecution of suspected workers compensation fraud, however the Unit also has directed its attention to the education of the public and the insurance industry. Also the Unit has filed cases against employers who have failed to file accident reports as required by K.S.A. 44-557.

This report is designed after a variety of other states' fraud unit reports. It is, however, a report for your review and if there are additions you would like to see in the future, please let us know. We want the report to be both informative and beneficial.

Sincerely,

Philip S. Harness
Director
Kansas Division of Workers Compensation

INTRODUCTION

The Workers Compensation Fraud and Abuse Investigation Unit was established in 1994. Staffing for the Unit comprises an Assistant Attorney General, who acts as the Unit's manager, three investigators and one clerical person. The Unit's responsibilities includes identifying potential fraud and abuse by investigating allegations of wrongdoing that are referred to the Unit and taking legal action when evidence gathered in the investigations indicates possible wrongdoing. In addition, the Unit sanctions employers who fail to file accident reports as required by K.S.A. 44-557.

Fraud in the workers compensation system may occur at any level involving employees, employers, insurance carriers, self-insured entities, attorneys, physicians and others who attempt to obtain or deny workers compensation benefits in a fraudulent manner.

K.S.A. 44-5,120 lists 21 acts that constitute fraud and or abuse of the workers compensation system. K.S.A. 44-5,125 makes some acts a felony crime.

During 2001, the Fraud and Abuse Unit performed 199 investigations of those individuals, self-insured entities and employers who were alleged to have violated Kansas workers compensation acts. The Unit has provided Kansans with an aggressive program to fight fraud in the workers compensation system. Also in 2001, the Unit pursued employers who failed to file accident reports as required by K.S.A. 44-557.

As the following report and statistics show, the Unit performs a vital service in helping reduce and punish workers compensation fraud violators and insures compliance with other relevant workers compensation laws in Kansas. However, this is not enough. The direct involvement of all Kansans is required to send the message that fraud will not be tolerated in Kansas.

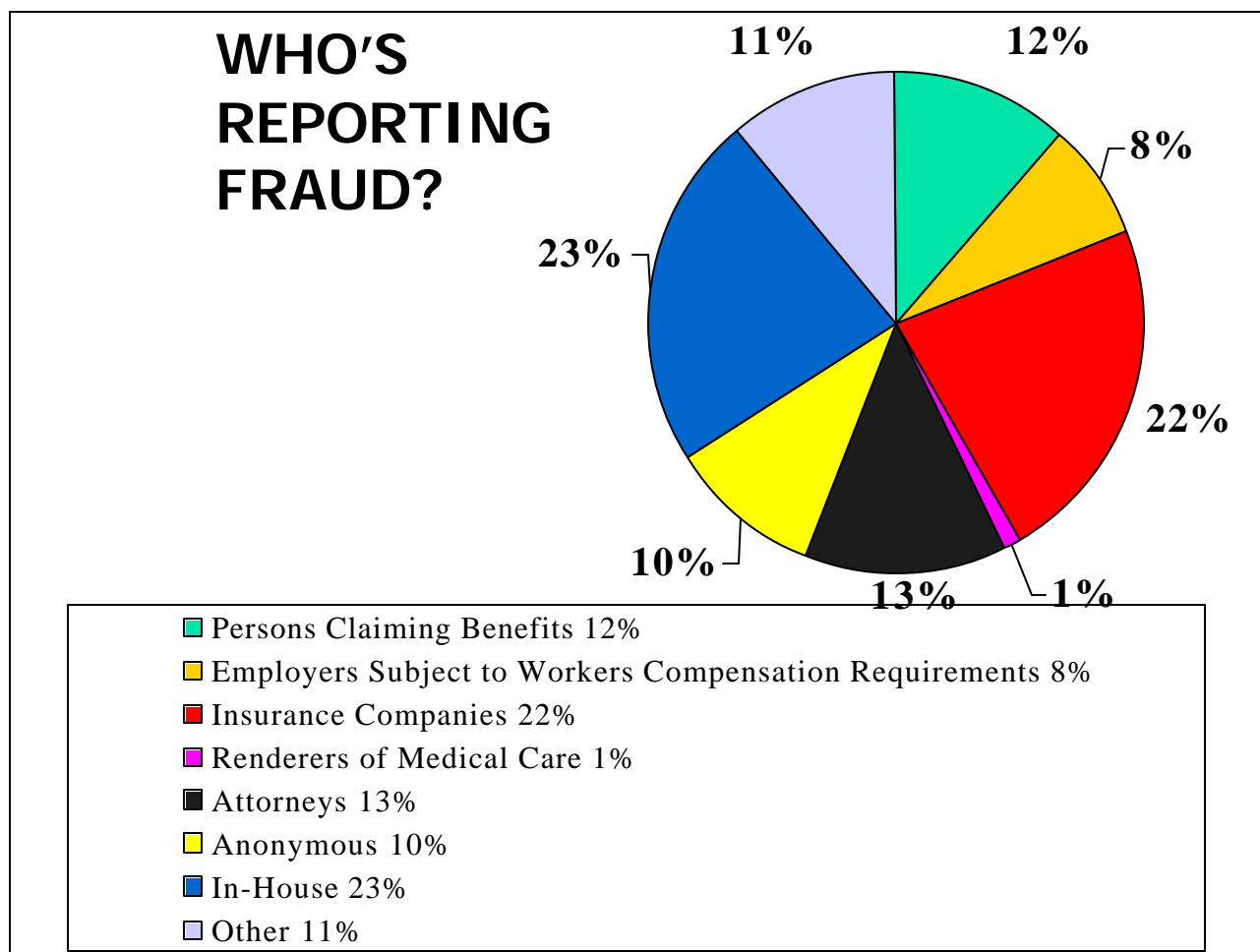
REFERRALS

A. Information Received by the Unit

The Fraud and Abuse Unit receives information on alleged fraud violators by phone, fax, e-mail, regular mail or a submission from one of the other sections of the Division of Workers Compensation. Allegations of fraud and abuse are designated as a referral. This referral is reviewed by the Assistant Attorney General to determine if sufficient information is evident to warrant an investigation. If there is sufficient information, the case is given to an investigator for investigation. If insufficient information exists, the matter is either returned to the complaining party for further information or if that is not possible, then the referral is recorded but no investigation commences.

B. Reporting Fraud

The illustration below indicates who reports allegations of fraud to the Unit. As noted, reports come in from all persons within the workers compensation system.



C. Referrals by Location

The Fraud and Abuse Unit records the location of the referrals by the county in which the fraud allegedly occurred. Indicated in each county is the number of referrals received from that county.

Cheyenne	Rawlins	Decatur	Norton	1 Phillips	Smith	Jewell	Repub- lic	Wash- ington	3 Mar- shall	1 Nema- ha	2 Brown	1 Doni- phan	Leaven- worth
Sherman	Thomas	Sheri- dan	Graham	Rooks	Osborne	Mitchell	1 Cloud	Clay	11 Pottawa- tomia	2 Jack- son	2 Atchi- son	2 Jefferson	Wyan- dotte
Wallace	Logan	Gove	Trego	Ellis	Russell	Lincoln	Ottawa	3 Riley	3 Geary	23 Shaw- nee	6 Doug- las	15 John- son	54 Johnson
Greeley	Wichi- ta	Scott	Lane	Ness	Rush	3 Barton	1 Rice	1 McPher- son	1 Morris	1 Lyon	1 Osage	2 Frank- lin	2 Miami
Hamilton	Kearny	Finney	Hodge- man	1 Pawnee	Ed- wards	2 Reno	1 Harvey	1 Chase	1 Marion	1 Coffey	1 Anderson	1 Linn	
Stan- ton	Grant	2 Hask- ell	Gray	1 Ford	Kiowa	1 Pratt	31 Sedgwick	1 Butler	1 Green- wood	1 Wilson	1 Neosho	1 Craw- ford	
Mor- ton	Stevens	2 Seward	Meade	Clark	Co- manche	1 Barber	2 Sumner	1 Cowley	1 Chau- tauqua	4 Mont- gomery	2 La- bette	1 Cher- okee	

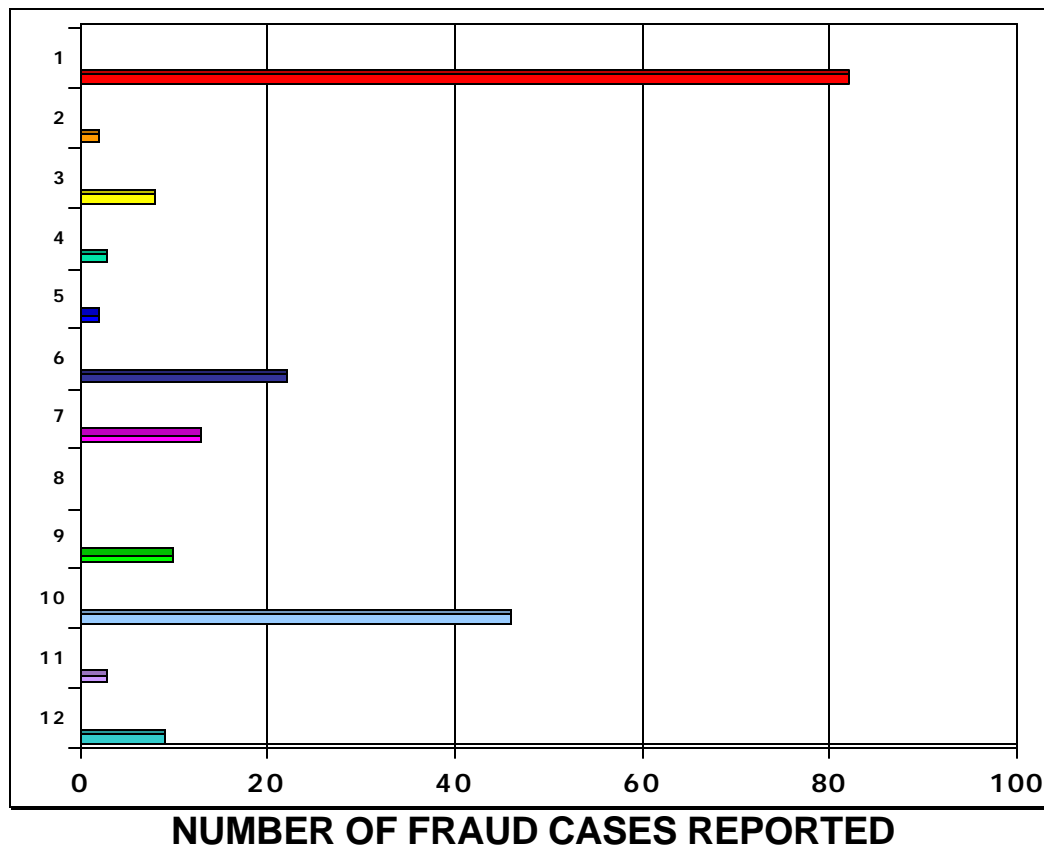
Please note out of the 199 referrals, (123) or 61.8 percent came from Sedgwick, Wyandotte, Johnson and Shawnee. Out of the 105 counties in Kansas, 60 percent or 63 counties did not have any reported referrals.

The Unit has recorded travel by the investigators and the Assistant Attorney General. This travel would include investigation, criminal prosecution, administrative actions and educational presentations to the general public, law enforcement and the insurance industry.

Travel Hours	
Assistant Attorney General	20.00
Special Investigators	1,017.75

D. Types of fraud

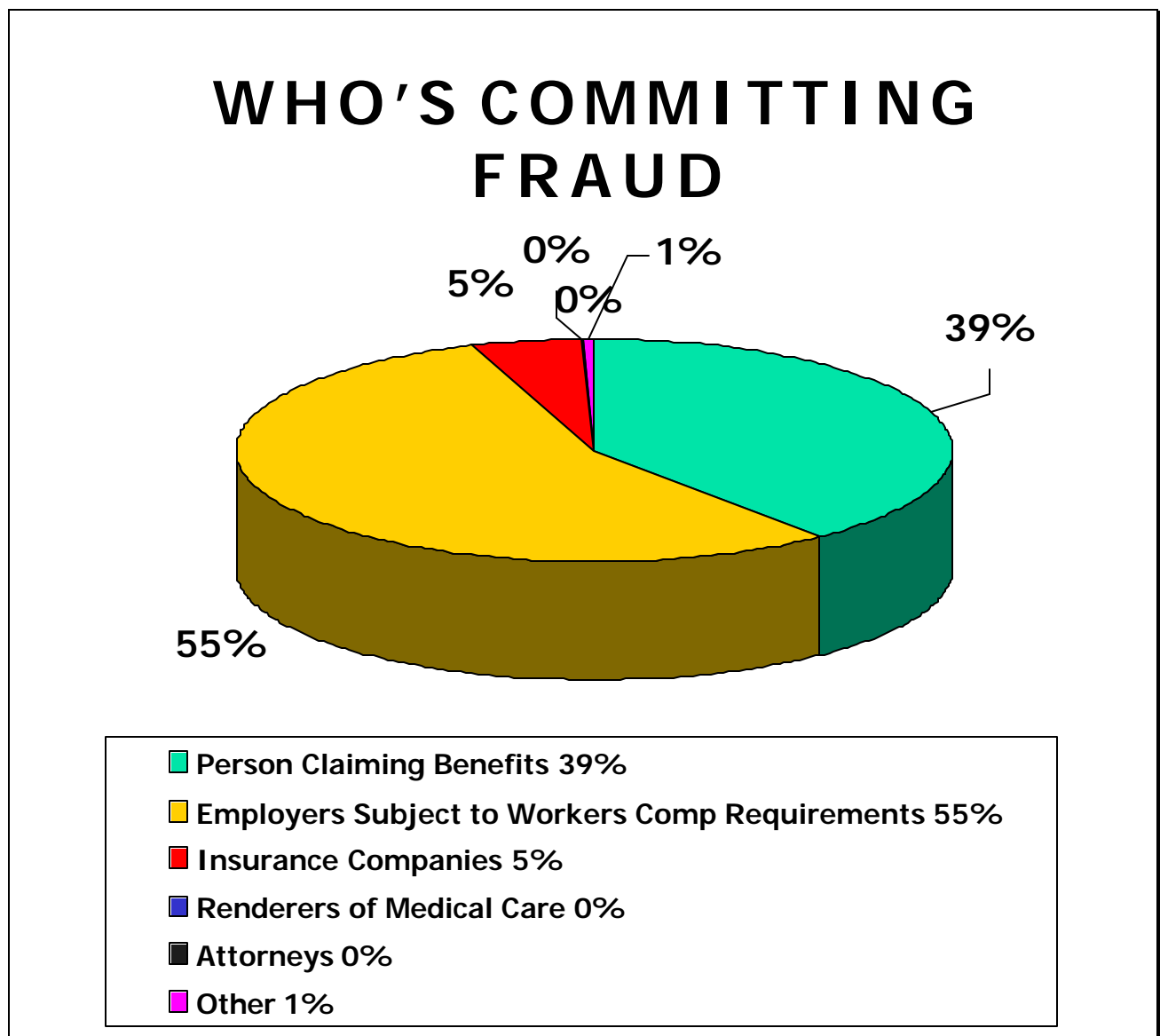
The Unit classifies the type of fraud reported as it relates to the fraud and abuse statutes as well as the compliance statutes.



1. Obtaining or denying benefits by making false statements either orally or written, K.S.A. 44-5, 120 (D)(4).
2. Misrepresenting provisions of the Act to an employee, employer, or medical provider, K.S.A. 44-5, 120 (D)(11).
3. Failure to confirm benefits to anyone providing treatment to a claimant, K.S.A. 44-5, 120 (D)(15).
4. Failure to initiate or reinstate compensation when due, K.S.A. 44-5, 120 (D)(16).
5. Misrepresenting the reason for changing compensation, K.S.A. 44-5, 120 (D)(17).
6. Refusing to pay compensation as and when due, K.S.A. 44-5, 120 (D)(18).
7. Refusing to pay any order awarding compensation, K.S.A. 44-5, 120 (D)(19).
8. Refusing to timely file reports or records, K.S.A. 44-5, 120 (D)(20).
9. Receiving TTD or PTD benefits while working, K.S.A. 44-5, 125 (D).
10. Failure to maintain workers compensation insurance when required, K.S.A. 44-532 (c).
11. Collecting fees outside the medical fee schedule, K.S.A. 44-510 (D).
12. All other Fraud and Abusive Practices.

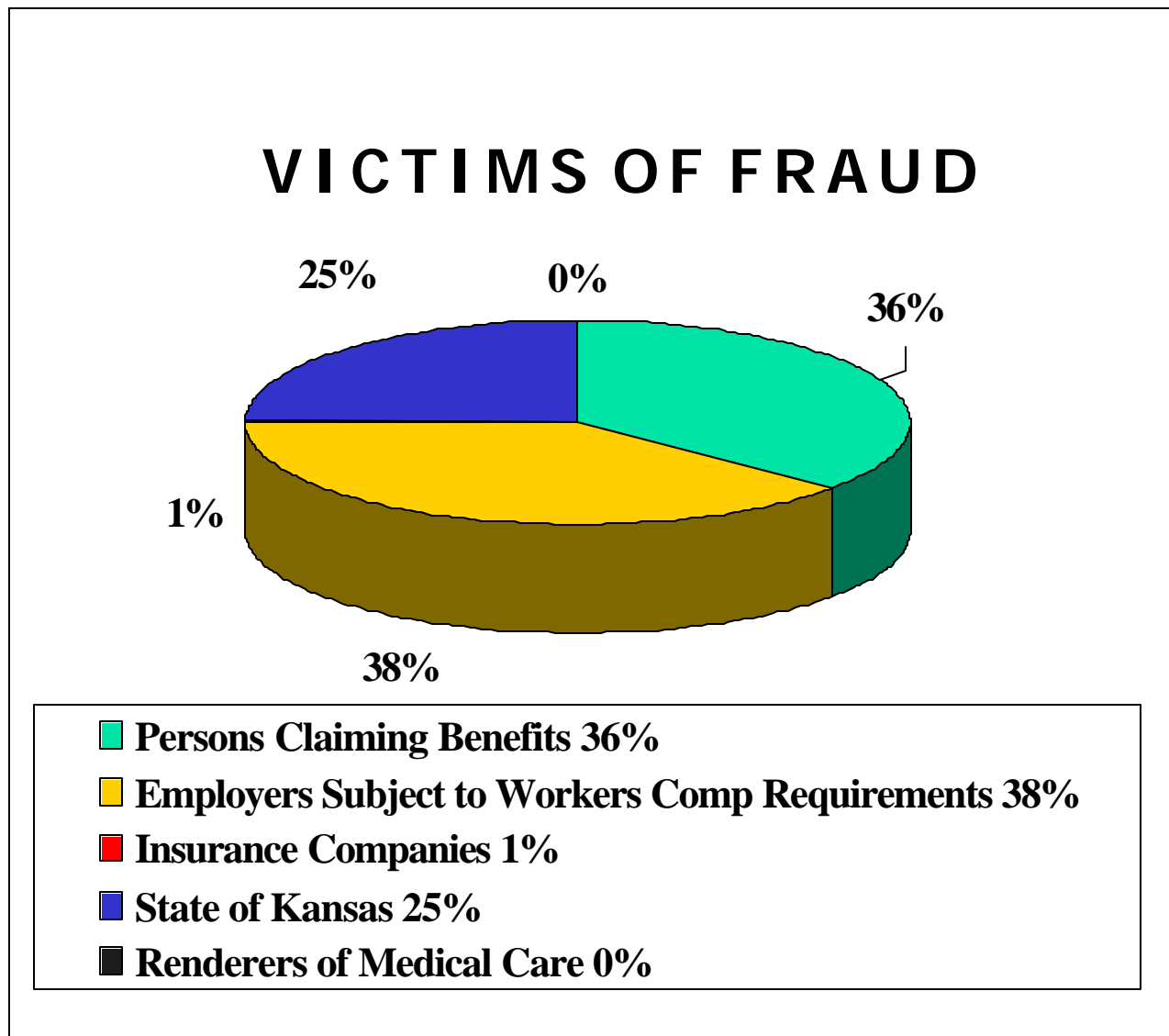
E. Type of Violators

The chart below indicates the alleged violators of the fraud and abuse statute. Of the 199 referrals for the year, claimants were indicated in 78, employers 110, insurance entities 10, renderers of medical care 0, attorneys 0 and others 1. The chart below indicates the percentages for each.



F. Fraud Victims

The chart below indicates who is the potential victim of the fraud being perpetrated. Of the 199 referrals for the year, claimants were indicated in 72, employers 77, insurance entities 1, renderers of medical care 0 and the State of Kansas (Workers Compensation Fund or compliance) 49. The chart indicates the percentages for each.



INVESTIGATIONS

Of the 199 referrals received by the Unit, 188 were fully investigated.

The Fraud Unit has three full time investigators. These investigators are not law enforcement officers, however, they perform almost identical investigative duties as sworn law enforcement. The investigation process includes activities such as interviewing witnesses, collecting evidence, forming liaisons with law enforcement groups as well as special fraud investigation units within the insurance industry and testifying in administrative and criminal actions.

Once an investigation is complete, the investigator will prepare an investigative summary for the Assistant Attorney General to review. Criminal or administrative action commences if the Assistant Attorney General determines there is sufficient information to sustain the burden of proof in either a criminal or administrative action.

If the information indicates an insurance company as the alleged fraud violator, that information is referred to the Kansas Insurance Department for review. Per Kansas law, the Kansas Insurance Department has authority to bring a fraud and/or abusive practice violation against insurance companies. Of the 199 referrals, 13 were referred to the Kansas Insurance Department for investigation.

If the information developed is insufficient to sustain the burden of proof in any action, the case is closed with no further action to be taken.

The average time for an investigation was 61 days. The Assistant Attorney General made a decision to prosecute, refer or close the file within an average of 7 days.

PROSECUTION

The Unit is authorized to initiate criminal or administrative action against individuals and entities that appear to have committed fraud or abuse of the workers compensation system. The Unit has been extremely aggressive in this area. Civil actions are broken out into compliance and fraud actions.

Criminal cases were filed in Johnson and Seward Counties.

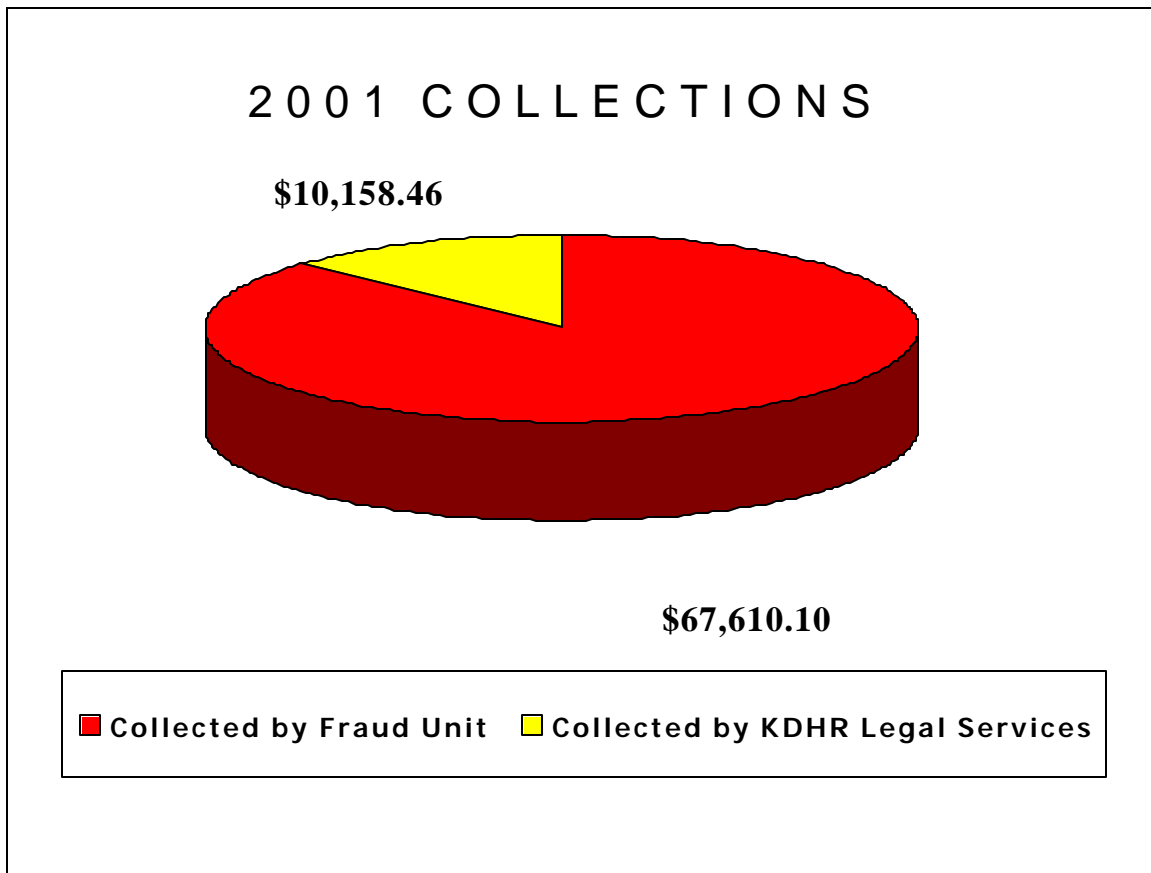
Number of Cases	
Civil	
Fraud	20
Compliance	17
Criminal	2
Total	39

COLLECTIONS

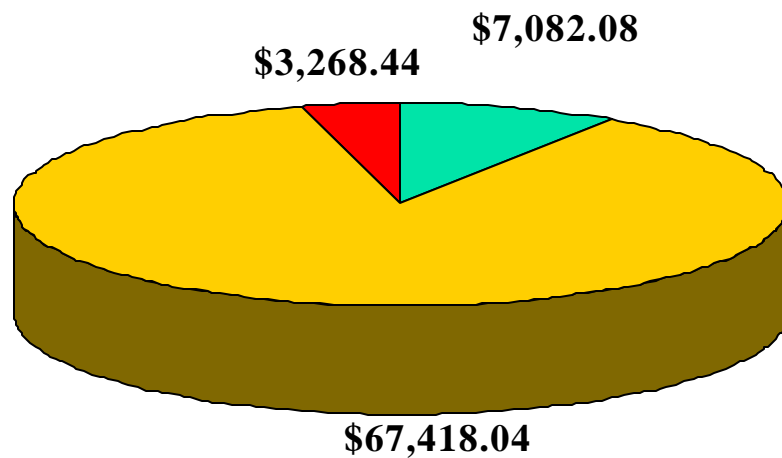
This year the Unit has devoted serious effort to collection of fines, penalties and restitution. During either a criminal or administrative action, a penalty, fine or restitution is requested but not necessarily ordered by the judge or hearing officer. The chart below shows the request that was made by the Unit and what was actually ordered and collected.

Amount Requested	Amount Ordered	Amount Collected
\$420,596.17	\$202,465.09	\$77,768.56

The Unit makes every attempt to collect the funds due and owed to the Unit without any assistance. However in some instances the Legal Services Division of the Kansas Department of Human Resources is used to file collection action. The chart below indicates the amount collected by each.



2001 COLLECTIONS Dispersement Chart



■ Fee Fund ■ Work Comp Fund ■ Restitution

Once the money is received, by law it must be deposited in the appropriate fund. The chart depicts the breakdown of which fund receives the money collected.

Restitution is money that is returned to the victim of the fraud.

CONCLUSION

The Division of Workers Compensation Fraud and Abuse Unit is and will continue aggressively investigating and prosecuting workers compensation violators.

If you wish to report an employer failing to comply with the Workers Compensation Act, fraud or just have questions for the Unit, please do not hesitate to contact us.

(Special thanks to Heather Mosqueda, Secretary of the Fraud and Abuse Unit, for her creative ideas and superior computer skills used to create this annual report.)